

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION**

ASD SPECIALTY HEALTHCARE, INC., d/b/a	:	
ONCOLOGY SUPPLY COMPANY	:	
2801 Horace Shepard Drive	:	
Dothan, AL 36303,	:	
	:	CIVIL ACTION
Plaintiff,	:	
v.	:	NO.1:05cv0591
	:	
ONCOLOGY & HEMATOLOGY CENTERS OF	:	
ATLANTA	:	
465 Winn Way, Suite 231	:	
Decatur, GA 30030,	:	
	:	
and	:	
	:	
LLOYD G. GEDDES	:	
1325 Scott Boulevard	:	
Decatur, GA 30030,	:	
	:	
Defendants.	:	

**MOTION OF THE PLAINTIFF ASD SPECIALTY HEALTHCARE, INC., d/b/a/  
ONCOLOGY SUPPLY, TO VACATE ORDER DATED DECEMBER 21, 2006**

The plaintiff, ASD Specialty Healthcare, Inc., d/b/a Oncology Supply (or “ASD”), by and through its undersigned counsel, hereby moves this Honorable Court for an order vacating the Order dated December 21, 2006, and entering a final judgment in favor of ASD and against the defendants in a liquidated amount based on the papers and other information already submitted. In support hereof, avers as follows:

1. On August 25, 2006, the Court entered default judgment in favor of ASD and against the defendants.
2. The Court also scheduled oral argument on the issue of damages, and that argument occurred on September 7, 2006. Also on September 7, 2006, the Court allowed ASD

until September 15, 2006 to supplement its request for attorneys' fees and costs. ASD submitted supplemental Declarations of Fees, and on September 28, 2006, it submitted amended supplemental Declarations of Fees. On October 11, 2006, the Court found that these supplemental Declarations of Fees were insufficient for the Court to find that the fees were reasonable, and it ordered ASD to supplement its request for attorneys' fees by October 20, 2006. On October 20, 2006, ASD filed a second amended supplemental Declaration of Fees.

3. At this point, the only outstanding issue is the entry of an order setting forth the amount of the final judgment, including attorneys' fees and costs, in favor of ASD and against both defendants, jointly and severally.

4. On December 21, 2006, the Court entered an Order setting January 22, 2007 as the date for a pre-trial hearing in the above captioned action (the "Pre-Trial Order"). A true and correct copy of the Pre-Trial Order is attached hereto as Exhibit A.

5. The Pre-Trial Order also scheduled this matter for trial during the February 26, 2007 trial term in Dothan, Alabama. See Exhibit A.

6. ASD believes that no pre-trial conference or trial is necessary in this action, and that the Pre-Trial Order is due to be vacated.

7. Accordingly, as there remain no issues for trial, ASD respectfully requests the Court to vacate the Pre-Trial Order and to enter a final judgment in favor of ASD and against the defendants in a liquidated amount based on the papers and other information already submitted. Attached hereto as Exhibit B is a proposed order reflecting the relief ASD requests.

WHEREFORE, ASD respectfully requests that the Court vacate the December 21, 2006 Pre-Trial Order, and enter a final judgment in favor of ASD and against the defendants in a liquidated amount based on the papers and other information already submitted.

Respectfully submitted,

s/ Elizabeth B. Shirley  
Reid S. Manley (MAN039)  
Elizabeth Bosquet Shirley (BOS018)

Attorneys for Plaintiff  
ASD Specialty Healthcare, Inc.

**OF COUNSEL:**

**BURR & FORMAN LLP**  
420 North 20th Street, Suite 3100  
Birmingham, Alabama 35203  
Telephone: (205) 251-3000  
Facsimile: (205) 458-5100

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 3rd day of January, 2007, I have served a copy of the foregoing by Notice of Electronic Filing to all counsel of record.

I hereby certify that a copy of the foregoing has been served on the following by directing same to their office addresses through first-class, United States mail, postage prepaid, on this the 3rd day of January, 2007:

Lloyd G. Geddes  
c/o Oncology Hematology Centers of Atlanta, P.C.  
465 Winn Way  
Suite 231  
Decatur, Georgia 30030

Oncology Hematology Centers of Atlanta, P.C.  
c/o Lloyd G. Geddes  
465 Winn Way  
Suite 231  
Decatur, Georgia 30030

s/ Elizabeth B. Shirley  
Of Counsel

## EXHIBIT A

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

ASD SPECIALTY HEALTHCARE, INC., )  
d/b/a Oncology Supply Company, )  
 )  
Plaintiff, )  
v. ) CASE NO. 1-05-cv-591-MEF  
 )  
ONCOLOGY HEMATOLOGY CENTERS )  
OF ATLANTA, PC., *et al.*, )  
 )  
Defendants. )

**ORDER**

It is ORDERED that this case is set for a pretrial hearing, as provided by Fed.R.Civ.P. 16, on January 22, 2007 at 11:30 A.M. at the United States Courthouse, Dothan, Alabama.

The pretrial hearing will be conducted in consideration of the matters provided for in Rule 16. All parties are expected to have fully complied with this court's Rule 16 order. All parties should prepare and have ready all possible admissions of fact and documents which might avoid unnecessary proof upon trial.

LEAD TRIAL COUNSEL FOR ALL PARTIES MUST BE PRESENT at the time above designated and be fully prepared to state the facts of the case in the most minute detail and to admit all facts that are true. Appropriate penalties will be imposed for failure to comply with these requirements.

All motions WHICH HAVE NOT BEEN OTHERWISE SUBMITTED OR RULED ON will be heard at the above stated time.

The parties are DIRECTED to JOINTLY prepare a proposed pretrial order in accordance with the attached outline. Plaintiff is DIRECTED to e:mail the proposed pretrial order to *propord\_fuller@almd.uscourts.gov* in Word or WordPerfect format, **to be received no later than three business days prior to the pretrial hearing.**

TRIAL TERM COMMENCES: February 26, 2007 in Dothan, Alabama.

DONE this the 21st day of December, 2006.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE

## NOTICE TO ATTORNEYS

The proposed pretrial order must be joint, and not piecemeal, and it should be reviewed and approved by all parties BEFORE the pretrial hearing.

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IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
DIVISION

	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	
	)	
Defendant.	)	

### **ORDER ON PRETRIAL HEARING**

A pretrial hearing was held in this case on \_\_\_\_\_, wherein the following proceedings were held and actions taken:

1. PARTIES AND TRIAL COUNSEL:

COUNSEL APPEARING AT PRETRIAL HEARING: (same as trial counsel) or  
(indicate if different) \_\_\_\_\_

2. JURISDICTION AND VENUE:

3. PLEADINGS: The following pleadings and amendments were allowed:

4. CONTENTIONS OF THE PARTIES:

(a) The plaintiff(s)

(b) The defendant(s)

5. STIPULATIONS BY AND BETWEEN THE PARTIES:

**PLEASE LEAVE ORDER UNFINISHED AT THIS POINT FOR COMPLETION BY THE COURT.**

## EXHIBIT B



**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION**

ASD SPECIALTY HEALTHCARE, INC., d/b/a :  
ONCOLOGY SUPPLY COMPANY :  
2801 Horace Shepard Drive :  
Dothan, AL 36303, :

Plaintiff,

V.

CIVIL ACTION

NO.1:05cv0591

ONCOLOGY & HEMATOLOGY CENTERS OF  
ATLANTA  
465 Winn Way, Suite 231  
Decatur, GA 30030,

and

LLOYD G. GEDDES  
1325 Scott Boulevard  
Decatur, GA 30030,

Defendants.

## ORDER

CAME BEFORE THE COURT FOR HEARING Plaintiff ASD Specialty Healthcare, Inc., d/b/a Oncology Supply Company's Motion to Vacate Order Dated December 21, 2006, and upon consideration of the Motion, and any response thereto, it is hereby ORDERED:

1. The Motion is GRANTED;
2. The December 21, 2006 Order of this Court is hereby vacated;
3. The plaintiff is awarded the sum of \$ \_\_\_\_\_ on account of its claim for attorneys' fees and costs; and
4. The Clerk is directed to enter a judgment in the amount of \$ \_\_\_\_\_ in favor of the plaintiff and against both defendants, jointly and severally.

BY THE COURT:

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Honorable Mark E. Fuller  
Chief U.S.D.J.